

COMMITTEE STATEMENT

LB 968

HEARING DATE: January 19, 2000

COMMITTEE ON: Revenue

TITLE: (Revenue Committee) Change provisions relating to the Nebraska Budget Act, tax levies, joint public agencies, taxation of public property, and school finance

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

8	Yes	Senators Bohlke, Coordsen, Dierks, Hartnett, Landis, Raikes, Redfield and Wickersham
0	No	
0	Present, not voting	
0	Absent	

PROPOSERS

George Kilpatrick, Legal Counsel

REPRESENTING

Revenue Committee

OPPOSERS

REPRESENTING

NEUTRAL

Larry Ruth

REPRESENTING

Nebraska Association of Airport Officials

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 968 clarifies and develops several of the property tax relief measures of the past few years. The changes sought by this bill are considered consistent with and in furtherance of past, enacted legislation. Prominent among these past initiatives amended by LB 968 are (1) LB 1114 of 1996 that sets levy limits for all local governments; (2) LB 87 of 1999 that allowed Joint Public Agencies to be formed for carrying out cooperative activities; (3) LB 271 of 1999 that called for the assessment and taxation of public property not used for a public purpose; and (4) LB 881 of 1999 that uses excess funds in the Cash Reserve Fund to provide property tax relief for 1999, 2000, and 2001. Most of the changes are technical or clarification.

Among the substantive changes proposed by this bill is a change in the way county historical societies are treated under the levy limits. Currently such a levy is allocated by the county, but the budget is not within the Budget Act. Under LB 968, historical societies may have separate levies, but they are included with the

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county levy for levy limit purposes. As an alternative, a cash appropriation may be sought from the county and relieve the historical society from the oversight of the Budget Act except as part of the county. The bill also delays the implementation of LB 271 from January 2, 2000 to January 1, 2001.

Section by Section:

Section 1 would amend section 13-503 to include within the Nebraska Budget Act, a non-profit county historical society for which a separate levy is made as allowed under section 2 of the bill.

Section 2 would amend section 23-355.01 to include a separate levy made by a non-profit county historical society within the Budget Act and within the levy of the county (section 77-3442) instead of a separate, allocated levy under section 77-3443. As an alternative to this treatment, a new subsection would be added to allow a nonprofit county historical society to seek cash funding from the county itself. Approval of such a request from the historical society obligates the county to make the disbursement. Using this approach makes the budget of the historical society part of the budget and audit of the county for purposes of the Budget Act if the request is more than \$5,000. If not, the single disbursement from the county is all that is required to be detailed in the filed budgets and audits.

Sections 3, 4, and 10 would amend the Volunteer Emergency Responders Recruitment and Retention Act, a public library statute, and the open meetings law to include the Joint Public Agency Act within the permissible methods of joint action.

Section 5 would amend section 77-202.11 (LB 271 of 1999) to clarify that real property taxes owed by the lessee of government property are liens against all personal property of the lessee and to allow the government to send leases of property to the county assessor in the first year of implementation only. In subsequent years, new leases and a list of leases still in force is all that would be required. Also the bill rearranges subsection 3 so that the delinquency provisions are after the lien provisions.

Section 6 would amend section 77-202.12 (LB 271 of 1999) to require the assessor to give notice to the government of any property, leased or unleased, that the assessor views as not being used for a public purpose. In the case of leased property, the governmental unit is required to forward the notice immediately to the lessee that would be liable for the tax.

Section 7 would amend section 79-1072.04 (LB 881 of 1999) to exclude base year incentive payments in the school aid formula from the calculation of any excess appropriations to school aid in the second year of this biennium that would be required to be transferred into the TEEOSA Stabilization Fund.

Sections 8 and 9 would amend sections 79-1081 and 1082 to clarify that building funds for Class IV and V districts are within the levy limits of section 77-3442.

Section 11 would amend section 10 of LB 271 (1999) to delay the operative date of that bill from January 2, 2000 to January 1, 2001.

Section 12 provides operative dates of January 1, 2001 for the LB 271 amendments and immediately for the other sections.

Sections 13 and 14 repeal the original sections, and

Section 15 declares an emergency.

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EXPLANATION OF AMENDMENTS, IF ANY:

The Committee amendments replace LB 968 and add many provisions of LBs 1260, 1188, and 1048. The provisions of LB 968 are unchanged, except for the section numbers, and will not be repeated in this summary. LB 968 is contained in sections 1, 2, 17, 18, and 58-62 of the Committee amendments. The three bills that are added deal with property taxation and add new sections to LB 968 as follows:

LB 1188 is the annual administration of the property tax system bill brought to the Committee by the Department of Property Assessment and Taxation. Most of the changes are either technical or clarification. Among the more substantive provisions are that the bill strikes the confidentiality of the Form 521s that are used by the Department to determine the level of assessment in the county. The social security number would no longer be required to be attached to the form. The bill also would increase the number of times the assessors' examination is given from two times per year to four times.

LB 1188 would also change the method of distributing railroad value from calculating the distribution of the operating property every three years to calculating it every year based on a three-year average of where the railroad property is located. The bill also places the Department of Property Assessment and Taxation in charge of enforcing the personal property tax exemption for mainframe computers, turbine powered aircraft, and ag processing machinery as part of the Employment and Investment Growth Act. The bill would require that a form be filed and would authorize the Department to examine the contracts.

Section 3 of the Committee amendments would amend section 23-3202 to coincide with the language in section 77-1340 regarding state takeover of the assessment function.

Sections 4 and 5 amend the probate code, sections 30-2467 & 2469, to remove the filing of a decedent's inventory with the county assessor by the personal representative. This requirement is already in section 77-1201 for personal property.

Section 8 would amend section 57-239 to change the Department of Revenue to the Property Tax Administrator as the one who issues the rules and regulations and also prescribes the form for valuing mineral interests.

Section 9 would amend section 60-106 to change the Tax Commissioner to the Property Tax Administrator as the person that has the duty to prescribe the mobile home transfer statement. This section also clarifies the distribution of the mobile home transfer statement.

Section 10 would amend section 76-214 to remove the requirement that the social security number or federal identification number of the grantee appear on the real estate transfer statement. The bill also clarifies the distribution of the real estate transfer statement.

Section 11 would amend section 77-101 to incorporate the new definition in section 14.

Section 12 would amend section 77-112 to remove unnecessary language from the sales approach to actual value for real property. The factors removed are references to location, zoning and current use.

Section 13 would amend section 77-115 to clarify the definition of county assessor.

Section 14 is a new section that defines taxing official as a government official charged with the duty of auditing, assessing, equalizing, levying, calculating or collecting property taxes.

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Section 15 would amend section 77-202.03 to replace the county board with the county board of equalization for consistency throughout the exemption statutes. The bill also requires the county assessor rather than the county board of equalization, to assess the penalty for late filings of an affidavit for continued exemption.

Section 16 would amend section 77-202.05 to remove the requirement that all taxes on a property have been paid to grant an exemption.

Section 19 would amend section 77-421 to require the Property Tax Administrator to hold the examination for county assessors in February, May, August, and November rather than in February and September of each year.

Section 20 would amend section 77-609 to enact a new method of distributing railroad value beginning January 1, 2001. Under this amendment, the distribution would be calculated annually based on a rolling three-year average instead of being calculated every three years on one year of data.

Section 21 would amend section 77-623 to require the property taxes on railroad property to be collected in the same manner as personal property taxes. This would include both delinquent and current property taxes of a railroad.

Section 22 would amend section 77-684 to change the valuation appeal date for car line companies from March 1 to February 15.

Section 23 would amend section 77-801 to require all public service entities to furnish the information statement required by the Property Tax Administrator on April 15 rather than April 30.

Section 24 would amend section 77-801.01 to redefine operating property of a public service entity to include property leased by the entity.

Section 25 would amend section 77-802.01 to require the property taxes on public service entities to be collected in the same manner as personal property taxes. This would include both delinquent and current property taxes of a public service entity.

Section 26 would amend section 77-802.02 to change the valuation appeal date for public service entities from September 15 to September 10.

Section 27 would amend section 77-1210 to change obsolete language to tax district.

Section 28 would amend section 77-1229 to require any person seeking a personal property exemption under the Employment and Investment Growth Act to file a copy of the forms to be required by section 55 (77-4105) with the appropriate county assessor on or before May 1.

Section 29 would amend section 77-1233.04 to require the county assessor to file a personal property return on behalf of a taxpayer that fails or refuses to file the return. This section also allows the assessor to impose a penalty.

Section 30 would amend section 77-1249 to change the date that air carriers may appeal valuations to the Property Tax Administrator from March 1 to February 15.

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Section 31 would amend section 77-1331 to include property record cards and property record files and exclude tax bills and all other revenue functions under the uniform system to be maintained by the Property Tax Administrator. The amendment also states that the Property Tax Administrator may not require specific computer hardware or software.

Section 32 would amend section 77-1332 to repeal obsolete language and include language that was contained in section 77-1333, which would be repealed outright by the bill.

Section 42 would amend section 77-1514 to change the date the personal property abstract is filed with the Property Tax Administrator from May 15 to June 15 and remove the requirement that value be reported by school district.

Section 43 would amend section 77-1701 to require the county board to designate a county official to mail or deliver the property tax statements to the taxpayer.

Section 44 would amend section 77-1705 to include personal property on the property tax receipt and removes obsolete language. This section is also part of LB 1048 that is incorporated into this bill. The change made in this section is only to clarify that payments may be for some or all property taxes.

Section 55 would amend section 77-4105 to require the Property Tax Administrator to review all personal property of taxpayers seeking an exemption under the Employment and Investment Growth Act. The forms required for the exemption would be filed with the Property Tax Administrator. The change also requires a copy of the required forms to be filed with the county assessor in which the property has situs.

LB 1260 clarifies and provides procedures for granting greenbelt assessment value for agricultural and horticultural land. Also, definitions are provided by the bill. Substantive changes include the granting of a right to appeal a decision to not grant greenbelt status and a procedure for equalizing greenbelted property with other property in the state.

Section 33 would amend section 77-1343 to declare a purpose for the greenbelt statutes and define terms. The purpose is to value qualified agricultural and horticultural land at the value it would have if it had no other potential uses. Agricultural use is defined so that an incidental non ag use is not to disqualify the land. Owner is defined to include joint tenants or purchasers under a land contract. Agricultural land is to have the same meaning as in the ag land assessment statutes, special valuation is to be 80 percent of the value it would have without regard to other uses, and recapture valuation is 80 percent of market value. Subdivision is defined to mean the division of a parcel into two or more parcels, either of which is ten acres or less.

Section 34 would rearrange section 77-3444 so that the qualifications for greenbelt land be listed after the command that the land be valued at its special valuation. The qualifications are that it be in ag use, that it be zoned for ag, and that it be outside the incorporated limits of a municipality or S.I.D. This section also provides that both the special valuation and recapture valuation may be equalized by the county board of equalization, the agricultural and horticultural land valuation board, and the Tax Equalization and Review Commission.

Section 35 would amend section 77-1345 to change the date at which the application for greenbelt must be submitted from August 1st to June 30th and to strike references to who may apply for special valuation and replace them with the defined term "owner".

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Section 36 would be a new section setting out the procedures for receiving special valuation. The county assessor is to approve or deny the application by July 15th and send notification to the applicant. The applicant may appeal an adverse decision to the county board by August 15th and the county board must rule on the appeal by September 15th. The applicant or the county assessor may appeal the decision by the county board to the TERC within 30 days of the decision.

Section 37 would amend section 77-1346 to specifically state that the rulemaking authority of DPAT extends to the proper valuation of greenbelt land as well as its qualification.

Section 38 would amend section 77-1347 to change an internal reference and to change the term “taxpayer” to “owner”.

Section 39 would amend section 77-1348 to harmonize other changes and strike obsolete language dealing with sales made prior to August 26, 1983. This section would also provide that the 6% interest that applies to recapture of property taxes on special valued land is runs until 60 days after notification of recapture. After that time, the taxes and interest are considered delinquent and interest would be assessed at the 14% delinquent local tax rate.

Section 40 would amend section 77-1371 to incorporate the new section 36 into an ag land assessment section.

Section 41 would amend section 77-1381 to include the power to equalize both special value and recapture value with other powers of the Agricultural and Horticultural Land Valuation Boards.

Section 56 would amend section 77-5023 to include special valued land that is outside the range of 92 percent to 100 percent of special value or recapture value within the powers of TERC to equalize. If adjusted, such land is to be adjusted to the midpoint, that is 96 percent of the special or recapture value.

Section 57 would amend section 79-1016 to harmonize the new section 36 into the adjusted value for school aid purposes statute.

LB 1048 specifically allows partial payments of property taxes. The bill allows counties to keep payments in escrow until enough is collected to pay half or all the taxes due or all delinquencies. The bill also allows delinquent real estate taxes on mobile homes to be collected using the delinquent personal property tax procedures instead of the real estate tax procedures. The personal property tax procedures are faster and allow the seizure of other property owned by the taxpayer while the real estate procedures are applied only against the real estate itself and take about three years.

Section 45 is a new section that would allow county board to pass a resolution to allow holding partial payments in escrow until a full payment of one-half the taxes due or the full amount of delinquency has accumulated. The resolution could set minimum payment amounts or other conditions. The resolution could also require the taxpayer to sign an escrow agreement.

Funds held in escrow may be commingled. The county may pay interest at a rate to be determined by the county or may keep the interest earned on the money held. Amounts held in escrow are deemed to be held in trust for the benefit of the taxpayer. Once the amount of money in the escrow is equal to one-half of current taxes due, the treasurer is to apply the escrow to the liability before the delinquency date. In the case of delinquent taxes, once the amount is equal to the taxes, penalties, and all interest the treasurer is to promptly apply the money to the delinquency. Such payments are not to effect any collection procedure.

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Section 46 would amend section 77-1705 to change the form of the receipt to recognize partial payments.

Sections 47 through 52 would amend sections 77-1716, 1717, 1718, 1721, 1738, and 1739, to include delinquent taxes on mobile homes within the procedures for collecting delinquent taxes on personal property.

Sections 53 and 54 would amend sections 77-1801 & 1862 to exclude delinquent taxes on mobile homes from the real estate procedures. The county board is to strike delinquent taxes on personal property or mobile homes after two years if the treasurer believes that the person has left the county.

Sections 63 through 67 provide operative dates for the various provisions. The greenbelt and property tax payments held in escrow sections become operative on January 1, 2001, the provisions dealing with the assessors' school and 775 personal property become operative July 1, 2000, and the other sections are effective immediately with the emergency clause.

Senator William R. Wickersham, Chairman